IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

Crl.Rev.Pet.No. 543 of 1999()

CC 1022/92 OF JFCM-I, KANNUR
CA.302/1996 of ADDL.SESSIONS COURT, THALASSERY

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REVN. PETITIONER: APPELLANT/ACCUSED

M.ULLASAN, S/O.BALAN
ELAYAVOOR AMSOM
CHOVVA DESOM, KANNUR DT.

BY ADV. SRI.K.V.SOHAN

RESPONDENTS: RESPONDENT/COMPLAINANT

STATE, C.I. OF POLICE, KANNUR TOWN
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI.DILIP.S.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 12/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.R.P.543/99

ORDER ON CRL.M.P.NO.2364/1999 IN CRL.R.P.NO.543/1999

DISMISSED

12.7.2007 SD/- K.R.UDAYABHANU, JUDGE

/TRUE COPY/

P.A. TO JUDGE

K.R.UDAYABHANU, J

Crl.R.P.No.543 of 1999

Dated this the 12th day of July, 2007

O R D E R

The revision petitioner stands convicted for the offences under Sections 279, 337 and 304A IPC and sentenced to undergo R.I. for one year for the offence under Section 304A IPC and R.I. for three months each for the offences under Sections 279 and 337 IPC. Driving licence of the accused stands suspended for a period of two years under Section 22 of the M.V. Act.

2. The prosecution case is that on 22.3.1992, at about 1.45 p.m., the accused drove his tempo van bearing registration No.KL-13/6418 through Thekki Bazaar - Kakkad public road in a rash and negligent manner so as to endanger human life and hit on the motor cycle bearing registration No.KRC4587 which was ridden by the deceased Subhash with PW1 as the pillion rider. Both sustained injuries and Subhash died at the hospital.

3. The evidence adduced in the matter consisted the testimony of PWs' 1 to 13, Exts. P1 to P12 and MO1 series.

4. The occurrence witnesses are PWs' 1 and 2. PW1 is the pillion rider. Counsel for the revision petitioner has relied on

the version of PW1, the pillion rider, as brought out in the cross examination that the motor cycle was took a sudden right turn. PW2 a traveller in the tempo has also deposed likewise. But, I find that PW1 has deposed that his friend turned towards the right after giving signal. As pointed out by the Government Pleader in Ext. P2 scene Mahazar it is noted that the tyre marks of the tempo to the length of 10 mtr. which would indicate that the vehicle was driven in over speed and without keeping the distance from the vehicle that was going in front. In the circumstances, I find no reasons to interfere in the concurrent findings of the court below as to the guilt of the accused. The conviction is confirmed.

5. Counsel for the revision petitioner has pleaded for leniency in sentence pointing out that the incident has taken place in March 1992 and more than 15 years have elapsed since the date of the occurrence and the commencement of the criminal proceedings and the accused was so far facing the same.

6. In the circumstances, the sentence is liable to be modified. Hence, the accused/revision petitioner sentenced to

imprisonment till the rising of the court and to pay a compensation of Rs.10,000/- to the legal representatives of the deceased. The revision petitioner is granted two months' time to remit the compensation amount. He shall appear before the Judicial First Class Magistrate Court-I, Kannur on 18.9.2007 to receive sentence.

The criminal revision petition is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE

csl